

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of)	
)	
Public Safety and Homeland Security Bureau)	PS Docket No. 10-233
Seeks Comment on Petition for Waiver)	
Filed by Thales Communications, Inc.)	

REPLY COMMENTS OF THALES COMMUNICATIONS, INC.

Thales Communications, Inc. (“Thales”), by undersigned counsel, hereby submits these Reply Comments in response to the Initial Comments filed by Motorola, Inc. (“Motorola”), the National Public Safety Telecommunications Council (“NPSTC”), the Public Safety Spectrum Trust Corporation (“PSST”), the American Association of State Highway and Transportation Officials (“AASHTO”) and the Illinois Statewide Interoperability Executive Committee (“Illinois”) in the above captioned proceeding. Motorola, NPSTC, PSST, AASHTO and Illinois are referred to herein collectively as the “Commenters”. The Initial Comments were filed in response to the Commission’s November 12, 2010 Public Notice in this docket.¹

I. All Initial Comments Support Grant of the Requested Waiver

Each of the Initial Comments supports grant of the requested waiver for the reasons set forth by Thales in its Waiver Request. Specifically, waiver is necessary to ensure that all authorized users of radios on systems authorized for temporary operation on the 775-776 MHz/805-806 MHz band can acquire new multi-band equipment capable of operating on those guardband frequencies during the waiver term. As confirmed by the Commenters, absent such relief, new equipment acquired during the transition to the consolidated narrowband spectrum

¹ Public Safety and Homeland Security Bureau Seeks Comment on Petition for Waiver Filed by Thales Communications, Inc., Public Notice, DA 10-2180 (rel. Nov. 12, 2010) (“Public Notice”).

block “would not be fully interoperable with equipment previously purchased, as some equipment could operate on 775-776 MHz/805-806 MHz and some could not.”²

As explained by Thales and confirmed by the Commenters, permitting the temporary authorization, acquisition and use of multi-band equipment – such as the Thales Liberty™ Radio on these systems and in the 775-776 MHz/805-806 MHz band during the waiver terms will help achieve and sustain public safety interoperability by conveying a host of significant technical and operational benefits (flexible deployment, mutual aid channels, frequency coordination, spectrum utilization, range expansion) as well as financial benefits.³ The detailed discussions of these operational and financial benefits contained in the Thales Waiver Request at Pages 4-8 are hereby incorporated by reference.

Accordingly, the Commission should grant the Waiver Request, subject to the conditions discussed below.

II. Discussion of Waiver Scope, Logistics and Other Conditions

A. Applicability of Waiver to All Manufacturers

In the Public Notice, the Commission requested comment as to whether the relief sought by Thales, if granted, should be extended to equipment offered by other manufacturers.⁴ Each of the Commenters supports extension of any waiver granted to Thales to all similarly situated manufacturers. In light of the broad public safety issues involved in this proceeding, Thales does not object to extension of any waiver granted in this case to all similarly situated manufacturers, so long as any such manufacturer complies with all waiver conditions imposed by the Commission.

² See Comments of NPSTC at p.3; Comments of AASHTO at p.3; Comments of PSST at p.3; Comments of Motorola at p.4-6; Comments of Illinois at p.1-2.

³ See e.g., Thales Waiver Request at p. 4-8; Comments of PSST at p.3; Comments of Motorola at p.4-7.; Comments of Illinois at p.1-2.

⁴ See Public Notice at p.3.

B. Extending Equipment Authorizations for 775-776 MHz/805-806 MHz

As the Commission is aware, Thales' Waiver Request requested the temporary extension of the frequencies specified on the Thales Liberty™ Radio equipment authorization (the "Thales Equipment Authorization") to include 775-776 MHz and 805-806 MHz, and Thales demonstrated that extension of the Thales Equipment Authorization would be consistent with Commission policy.⁵ Motorola similarly recognizes the important regulatory issues relating to equipment authorizations, which currently "limit[] a manufacturer's equipment certification not to include the 775-776/805-806 MHz band spectrum on which a licensee is authorized to operate..."⁶ With respect to the equipment authorization issue, NPSTC recommends that "the Commission provide the relief requested by issuing a blanket waiver...rather than by modifying the actual certification grants. However, any equipment deployed must meet compatible technical parameters, e.g., power levels, emissions, frequency stability, etc. as it already meets under a Commission certification grant to operate in the current consolidated narrowband 700 MHz spectrum at 769-775/799-805 MHz under the revised bandplan."⁷ This is to confirm that Thales supports grant of the Waiver Request by the Commission either via modification of equipment authorizations, if that is necessary, or via a blanket waiver approach as described by NPSTC.

C. Applicability of Waiver to All Authorized Users on Systems Authorized to Operate on Guardband Frequencies

AASHTO proposes that any waiver granted in this proceeding contain a condition which specifies: "Equipment manufactured and marketed to operate in the guardband may only be

⁵ See, e.g., Thales Waiver Request at p. 14, n.34.

⁶ See Comments of Motorola at p.6.

⁷ See Comments of NPSTC at p.4-5.

acquired by public safety entities currently authorized for guardband spectrum operation.”⁸

Other Commenters propose a similar condition with slightly different wording. While Thales understands and supports the sentiment of this proposed condition, Thales respectfully submits the following clarifying comments to ensure that any waiver granted by the Commission in this case provides the necessary interoperability benefits to all potential users.

First, with respect to AASHTO’s proposal to limit the scope of the waiver to only “public safety entities...authorized for guardband spectrum operation”, this is to confirm that while the Commission has issued waivers for guardband operation to certain *licensees* in charge of deploying 700 MHz public safety systems, there are numerous authorized *users* of such systems, *all of which must be permitted to operate the multi-band radios that are the subject of the waiver in this proceeding*. Unless all authorized users of equipment on these systems are permitted to acquire and operate the equipment subject to the waiver in this proceeding, achievement of the public safety interoperability benefits specified in the Waiver Request will be illusory. For example, for Illinois, while the Commission has issued a waiver for temporary guardband operation to “The State of Illinois, Illinois State Police”,⁹ there are numerous entities authorized to operate radio equipment on the Illinois STARCOM21 system in addition to the Illinois State Police. Such additional authorized users of equipment on the STARCOM21 system include, but are not limited to The Argonne National Laboratory, the Illinois Commerce Commission, the Illinois Department of Corrections, the Illinois Department of Natural Resources, the Illinois State Toll Highway Authority, as well as various public health departments and other city and

⁸ Comments of AASHTO at p.3.

⁹ Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band; Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, PS Docket No. 06-229, WT Docket No. 96-86, Order, DA 08-1696 (rel. July 18, 2008) (“*Illinois Order*”).

county facilities and offices.¹⁰ Accordingly, Thales respectfully requests that any waiver granted by the Commission in this proceeding apply to *all authorized users* of radio equipment on systems authorized for temporary operation on the 775-776 MHz/805-806 MHz band.

Second, Thales wishes to comment on AASHTO's suggestion that the waiver granted in this proceeding apply only to those systems "currently" authorized for guardband spectrum operation. While Thales recognizes that it may not be very likely that the Commission will authorize guardband operation to additional 700 MHz systems beyond those for which authority has already been granted, the policies underlying Thales' Waiver Request would support extension of any waiver granted in this proceeding to *all* systems authorized for temporary guardband operation, whether currently authorized at the time of the waiver grant in this proceeding or authorized pursuant to future Commission action. In this regard, Thales' Waiver Request did seek approval of the waiver with respect to entities that "have or will be granted waivers" to temporarily operate on the guardband frequencies.

In light of the above, Thales respectfully requests that the above-referenced condition proposed by AASHTO be modified to read:

Equipment subject to this waiver and manufactured and marketed to operate in the guardband may only be acquired and operated by authorized users of radio equipment on systems authorized (currently or in the future) for guardband spectrum operation.

D. Field Reprogramming Capability of Equipment Subject to Waiver

AASHTO further proposes that any waiver granted in this proceeding contain a condition which specifies that the equipment subject to the waiver "...be capable of field reprogramming

¹⁰ See, e.g., Letter dated October 23, 2007, from Lt. Deb Garde, Illinois State Police to Marlene Dortch, Secretary, p.2, PS Docket No. 06-229; WT Docket No. 96-86 (certifying number of radios on the STARCOM21 system and requesting waiver for temporary continued guardband operations) .

by authorized personnel [to] delete guardband frequencies when the licensee's waiver terminates."¹¹ Other Commenters propose a similar condition with slightly different wording.

Thales understands and supports the sentiment of such proposed condition, so long as such condition is interpreted by the Commission to require only that upon termination of the last licensee waiver the guardband frequencies can be deleted from the menu of currently operable frequencies (which is reasonable via field programming) rather than an interpretation which would require reprogramming the equipment in a manner that renders the equipment permanently incapable of transmitting on such guardband frequencies (which would require significantly more engineering beyond field reprogramming). Assuming that such interpretation is confirmed, Thales supports a condition to the waiver which states:

Equipment subject to this waiver must be capable of field reprogramming by authorized personnel [to] delete guardband frequencies when the licensee's waiver terminates.

E. Other Proposed Conditions

AASHTO further proposes the following additional conditions, which were proposed by the other Commenters with slightly different wording:

The waiver to manufacture and market equipment with channels operating in the guardband terminates coincidently when the last public safety licensee transitions from guardband operations.

Equipment purchased and deployed under this waiver is not eligible for cost reimbursement in relocating from guardband operations.¹²

In addition, NPSTC proposes an additional condition, as follows:

[A]ny equipment deployed must meet compatible technical parameters, e.g., power levels, emissions, frequency stability, etc. ...under a Commission certification grant to operate in the current consolidated narrowband 700 MHz spectrum at 769-775/799-805 MHz under the revised bandplan.¹³

¹¹ Comments of AASHTO at p.3.

¹² Id. at p.3-4.

¹³ Comments of NPSTC at p. 4-5.

Thales hereby supports imposition of the above additional conditions in connection with any Commission grant of the waiver requested in this proceeding.

III. Conclusion

For the foregoing reasons, Thales respectfully reiterates its request for an expedited waiver, and any other relief as may be necessary and proper, to permit the temporary extension of the authorized Part 90 frequencies specified on the Thales Equipment Authorization to include 775-776 MHz and 805-806 MHz. In addition, Thales requests that the Commission grant the requested waiver consistent with the following:

- Any waiver granted to Thales in this proceeding may be extended to all similarly situated manufacturers, so long as any such manufacturer complies with all waiver conditions imposed by the Commission.
- Thales supports grant of the Waiver Request by the Commission either via modification of equipment authorizations, if that is necessary, or via a blanket waiver approach.
- Equipment subject to this waiver and manufactured and marketed to operate in the guardband may only be acquired and operated by authorized users of radio equipment on systems authorized (currently or in the future) for guardband spectrum operation.
- Equipment subject to this waiver must be capable of field reprogramming by authorized personnel [to] delete guardband frequencies when the licensee's waiver terminates.
- The waiver to manufacture and market equipment with channels operating in the guardband terminates coincidentally when the last public safety licensee transitions from guardband operations.
- Equipment purchased and deployed under this waiver is not eligible for cost reimbursement in relocating from guardband operations.¹⁴
- Equipment deployed under this waiver must meet compatible technical parameters, e.g., power levels, emissions, frequency stability, etc. under a Commission certification grant to operate in the current consolidated narrowband 700 MHz spectrum at 769-775/799-805 MHz under the revised bandplan.

¹⁴ Id. at p.3-4.

Respectfully submitted,

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Dated: December 28, 2010